

IC 6-3.1-25.2

Chapter 25.2. Coal Combustion Product Tax Credit

IC 6-3.1-25.2-1

"Coal combustion product"

Sec. 1. As used in this chapter, "coal combustion product" means the byproducts resulting from the combustion of coal in a facility located in Indiana, including a fluidized bed boiler. The term includes boiler slag, bottom ash, fly ash, and scrubber sludge.

As added by P.L.215-2003, SEC.2.

IC 6-3.1-25.2-2

"Manufacturer"

Sec. 2. (a) As used in this chapter, "manufacturer" means a taxpayer that:

(1) obtains and uses coal combustion products for the manufacturing of recycled components; and

(2) is one (1) of the following:

(A) A new business.

(B) An existing business that, during a taxable year in which the taxpayer claims a credit under this chapter, begins manufacturing recycled components.

(C) An existing business that:

(i) manufactures recycled components; and

(ii) during a taxable year in which the taxpayer claims a credit under this chapter, increases acquisitions of coal combustion products by the amount determined in subsection (b).

(b) A manufacturer described in subsection (a)(2)(C) must increase the manufacturer's acquisitions of coal combustion products by the amount determined in STEP THREE of the following STEPS:

STEP ONE: Determine the total amount of coal combustion products obtained by the manufacturer for each of the three (3) taxable years immediately preceding the taxable year in which the manufacturer claims a credit under this chapter.

STEP TWO: Determine the largest amount determined under STEP ONE.

STEP THREE: Determine the product of:

(A) the STEP TWO amount; multiplied by

(B) one-tenth (0.1).

As added by P.L.215-2003, SEC.2.

IC 6-3.1-25.2-3

"Recycled component"

Sec. 3. As used in this chapter, a unit of materials, goods, or other tangible personal property is a "recycled component" if coal combustion products constitute at least fifteen percent (15%) by weight of the substances of which the unit is composed. Recycled components include:

(1) aggregates;

- (2) fillers;
- (3) cementitious materials; or
- (4) any combination of aggregates, filler, or cementitious materials;

that are used in the manufacture of masonry construction products (including portland cement based mortar), normal and lightweight concrete, blocks, bricks, pavers, pipes, prestressed concrete products, filter media, and other products approved by the Center for Coal Technology Research established under IC 4-4-30.

As added by P.L.215-2003, SEC.2.

IC 6-3.1-25.2-4

"State tax liability"

Sec. 4. As used in this chapter, "state tax liability" means a taxpayer's total tax liability incurred under IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax), as computed after the application of all credits that under IC 6-3.1-1-2 are to be applied before the credit provided by this chapter.

As added by P.L.215-2003, SEC.2.

IC 6-3.1-25.2-5

Entitlement to credit; amount

Sec. 5. (a) A manufacturer is entitled to a credit against the manufacturer's state tax liability as follows:

- (1) In the case of a manufacturer described under section 2(a)(2)(A) or 2(a)(2)(B) of this chapter, the amount of the credit is equal to:

- (A) the number of tons of coal combustion products obtained and used by the manufacturer in the taxable year; multiplied by

- (B) two dollars (\$2).

- (2) In the case of a manufacturer described under section 2(a)(2)(C) of this chapter, the amount of the credit is equal to:

- (A) the difference between:

- (i) the number of tons of coal combustion products obtained and used by the manufacturer in the taxable year; and

- (ii) the amount determined in STEP TWO of section 2(b) of this chapter; multiplied by

- (B) two dollars (\$2).

(b) The total amount of credits allowed under this chapter may not exceed in the aggregate two million dollars (\$2,000,000) for all taxpayers per state fiscal year.

(c) To receive the credit provided by this chapter, a taxpayer must claim the credit on the taxpayer's state tax return or returns in the manner prescribed by the department.

(d) The department shall record the time of filing of each return claiming a credit under this section and shall, except as provided in subsection (e), grant the credit to the taxpayer, if the taxpayer otherwise qualifies for a tax credit under this chapter, in the

chronological order in which the return is filed in the state fiscal year.

(e) If the total credits approved under this section equal the maximum amount allowable in the state fiscal year, a return claiming the credit filed later in that same state fiscal year may not be approved. However, if an applicant for which a credit has been approved fails to file the information required by section 9 of this chapter, an amount equal to the credit previously allowed or set aside for the applicant may be allowed to the next eligible applicant or applicants until the total amount has been allowed. In addition, the department may, if the applicant so requests, approve a credit application, in whole or in part, with respect to the next succeeding state fiscal year.

As added by P.L.215-2003, SEC.2.

IC 6-3.1-25.2-6

Credit for shareholder, partner, or member of pass through entity

Sec. 6. (a) If a manufacturer that claims a credit under this chapter is a pass through entity (as defined in IC 6-3.1-11.5-8.5) that does not have state tax liability for a taxable year against which the credit may be applied, a shareholder, partner, or member of the pass through entity is entitled to a credit equal to:

(1) the credit determined for the pass through entity for the taxable year; multiplied by

(2) the percentage of the pass through entity's distributive income to which the shareholder, partner, or member is entitled.

(b) If the amount determined under subsection (a) exceeds the state tax liability of the shareholder, partner, or member, the shareholder, partner, or member may not carry over the excess to following taxable years.

As added by P.L.215-2003, SEC.2.

IC 6-3.1-25.2-7

Duration of credit

Sec. 7. A manufacturer with a facility located in Indiana may claim a credit under this chapter in each of ten (10) consecutive taxable years, beginning with the taxable year in which the manufacturer first claims the credit under this chapter.

As added by P.L.215-2003, SEC.2.

IC 6-3.1-25.2-8

Carryover, carryback, or refund of unused credit disallowed

Sec. 8. (a) If the amount determined under section 5 of this chapter for a taxable year exceeds the manufacturer's state tax liability for the taxable year, the manufacturer may not carry over the excess to following taxable years.

(b) A taxpayer is not entitled to a carryback or refund of any unused credit.

As added by P.L.215-2003, SEC.2.

IC 6-3.1-25.2-9**Application for credit**

Sec. 9. To obtain a credit under this chapter, the manufacturer must file with the department information that the department determines is necessary for the calculation of the credit provided under this chapter. The department shall keep a list that includes:

- (1) the name of each manufacturer that receives a credit under this chapter and IC 6-1.1-44; and
- (2) the amount of each credit for the manufacturer in the taxable year;

and provide the list annually to the Center for Coal Technology Research established under IC 4-4-30.

As added by P.L.215-2003, SEC.2.

IC 6-3.1-25.2-10**Conditions on obtaining credit**

Sec. 10. A taxpayer that obtains a deduction under IC 6-1.1-44 may not obtain a credit under this chapter for the same taxable year.

As added by P.L.215-2003, SEC.2.